

Notice of Allowability

Application No.

10/003,738

Examiner

Dennis Ruhl

Applicant(s)

SCHAER ET AL.

Art Unit

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- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the RCE filing of 3/15/06 and the examiner's amendment of 5/2/06.
2. ☒ The allowed claim(s) is/are 15-24.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


DENNIS RUHL
PRIMARY EXAMINER

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1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Darren Jones on 5/2/06. The amendment was requested by the examiner out of a concern that the language "non-alphanumeric pictorial symbols" was introducing new matter into the claims. The examiner was concerned that this language had a different scope from the disclosed "geometric shapes" found in the application as originally filed.

The application has been amended as follows:

In claim 15:

Bridging lines 6-7, the language "non-alphanumeric pictorial symbols" has been deleted and replaced with -- geometric shapes --.

At line 12, the language "non-alphanumeric pictorial symbols" has been deleted and replaced with -- geometric shapes --.

At line 16, the language "non-alphanumeric pictorial symbols" has been deleted and replaced with -- geometric shapes --.

At line 22, the language "non-alphanumeric pictorial symbols" has been deleted and replaced with -- geometric shapes --.

At line 26, the language "non-alphanumeric pictorial symbols" has been deleted and replaced with -- geometric shapes --.

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In claim 16:

Bridging lines 5-6, the language "non-alphanumeric pictorial symbols" has been deleted and replaced with -- geometric shapes --.

Bridging lines 8-9, the language "non-alphanumeric pictorial symbols" has been deleted and replaced with -- geometric shapes --.

At line 14, the language "non-alphanumeric pictorial symbols" has been deleted and replaced with -- geometric shapes --.

In claim 17:

Bridging lines 5-6, the language "non-alphanumeric pictorial symbols" has been deleted and replaced with -- geometric shapes --.

At line 8, the language "non-alphanumeric pictorial symbols" has been deleted and replaced with -- geometric shapes --.

In claim 18:

Bridging lines 2-3, the language "non-alphanumeric pictorial symbols" has been deleted and replaced with -- geometric shapes --.

Bridging lines 6-7, the language "non-alphanumeric pictorial symbols" has been deleted and replaced with -- geometric shapes --.

Bridging lines 10-11, the language "non-alphanumeric pictorial symbols" has been deleted and replaced with -- geometric shapes --.

In claim 19:

Bridging lines 5-6, the language "non-alphanumeric pictorial symbols" has been deleted and replaced with -- geometric shapes --.

Bridging lines 8-9, the language "non-alphanumeric pictorial symbols" has been deleted and replaced with -- geometric shapes --.

At line 14, the language "non-alphanumeric pictorial symbols" has been deleted and replaced with -- geometric shapes --.

In claim 20:

Bridging lines 5-6, the language "non-alphanumeric pictorial symbols" has been deleted and replaced with -- geometric shapes --.

At line 8, the language "non-alphanumeric pictorial symbols" has been deleted and replaced with -- geometric shapes --.

2. The following is an examiner's statement of reasons for allowance:

With respect to claim 15, the closest prior art is considered to be Kantar et al. (US 4164875) and the Yucca Dune ski-sizing chart (NPL document).

With respect to claim 15, not disclosed in Kantar is the establishment of a set of geometric shapes that correspond to user weight ranges, providing a collection of skis sorted into groups suitable for users in one of the weight ranges, where the skis have indicia that is matched in appearance with the geometric shapes, assessing the user weight without providing a common numeric indication of weight or mass, assigning the

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weight into one of the weight ranges to identify the geometric shape that corresponds to the weight ranges and selecting the ski by matching the ski indicia with the geometric shape for the user weight. Kantar does disclose the measurement of weight and discloses the use of a chart that references the user's weight and height to identify a ski length appropriate for that user. It is not taught that the weight is assigned into a weight category so that a geometric shape that corresponds to that weight category can be identified and used to select the ski. Kantar uses the weight and height to select a ski length. No correlation of user weight to a geometric shape is taught by Kantar and nothing in the prior art of record renders this as obvious to one of ordinary skill in the art.

With respect to claim 15 and the Yucca Dune sizing chart, not disclosed in the chart is the establishment of a set of geometric shapes that correspond to user weight ranges, providing a collection of skis sorted into groups suitable for users in one of the weight ranges, where the skis have indicia that is matched in appearance with the geometric shapes, assessing the user weight without providing a common numeric indication of weight or mass, assigning the weight into one of the weight ranges to identify the geometric shape that corresponds to the weight ranges and selecting the ski by matching the ski indicia with the geometric shape for the user weight. The sizing chart simply correlates the user weight to a ski length and mentions nothing about correlation of user weight to geometric shapes to allow ski selection to occur. Nothing in the prior art of record renders this as obvious to one of ordinary skill in the art.

With respect to claim 21, Kantar is believed to be the closest prior art. Kantar does not disclose a collection of skis having different colored labels, where each label

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corresponds to one of a plurality of user weight ranges, along with a mechanism for obtaining a reading proportional to the weight of the user, where the mechanism has an indicator that has differently colored regions that correspond to the colored labels of the skis. Kantar discloses the correlation of user weight and height to ski length, but discloses nothing about providing the skis with colored labels and having a mechanism to associate the user weight to a color matching one of the colored labels. Nothing in the prior art renders this limitation obvious to one of ordinary skill in the art.

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. WO 79/00207 discloses a system that allows a user to put on a pair of skis and test them out on a machine. This reference is not deemed to be very relevant to the claimed invention due to the fact that user weight is never really assessed. Only a load for a particular ski on a particular user is assessed and the method is a trial and error method of sizing skis.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Ruhl whose telephone number is 571-272-6808.

The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DENNIS RUHL
PRIMARY EXAMINER